

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FILED
2009 APR -9 AM 9:47
CLERK WESTERN DISTRICT OF TEXAS
BY *[Signature]*
DEPUTY

ENTERGY TEXAS, INC.,
Plaintiff,

v.

BARRY T. SMITHERMAN, Chairman of
the Public Utility Commission of Texas,

DONNA L. NELSON, Commissioner of the
Public Utility Commission of Texas, and

KENNETH W. ANDERSON, Commissioner
of the Public Utility Commission of Texas,
Defendants.

Case No. A09CA183LY

**UNOPPOSED MOTION FOR LEAVE TO INTERVENE OF
TEXAS INDUSTRIAL ENERGY CONSUMERS**

Pursuant to Rule 24 of the Federal Rules of Civil Procedure, Texas Industrial Energy Consumers (“TIEC”) files this Motion for Leave to Intervene in the above captioned case, respectfully showing the Court as follows:

1. Petitioner is an unincorporated association of large industrial companies that own and operate industrial facilities in the transmission and distribution service territory of Entergy Texas, Inc. (“ETI”) and throughout Texas. In the *Compliance Filing of Entergy Texas, Inc. Regarding Jurisdictional Allocation of 2007 System Agreement Payments* Docket No. 35269 (2009) before the Public Utility Commission of Texas (“Commission”), from which proceeding ETI has brought this appeal, TIEC sought and was granted status as an intervening party.
2. TIEC participated in the above docket because of the potential impact on the rates of certain TIEC members.

3. TIEC has an interest in the matter in controversy in that the Plaintiff in the above-captioned cause seeks judicial review of the Commission's order issued in Docket No. 35269. Certain TIEC members will be materially and financially impacted by the outcome of the appeal of Docket No. 35269. TIEC has a significant interest in the outcome.

4. No party to this proceeding represents the general interests of Texas' industrial ratepayers. TIEC will not be adequately represented by any other party in this proceeding, and, unless permitted to intervene and participate fully, may be bound or adversely affected by an order issued herein without an opportunity to have its views heard and considered. No other party to this proceeding would adequately represent and protect TIEC interests in this proceeding. Given TIEC's interest in the subject filing, it is in appropriate to grant this motion to intervene.

5. No party opposes this motion as set out below in the certificate of conference.

Wherefore, TIEC requests that the parties take notice of this filing of the Motion to Intervene, that TIEC be permitted to participate as a party in this proceeding, and that TIEC be granted such other and further relief to which it may show itself to be justly entitled.

Respectfully submitted,


Rex VanMiddlesworth
State Bar No. 20449400
Meghan Griffiths
State Bar No. 24045983
Andrews Kurth LLP
111 Congress Avenue, Suite 1700
Austin, Texas 78701
(512) 320-9200
(512) 320-9292 FAX

ATTORNEYS FOR TEXAS INDUSTRIAL
ENERGY CONSUMERS

CERTIFICATE OF CONFERENCE

I, Meghan Griffiths, hereby certify that my office conferred with David Duggins, counsel for Plaintiff Entergy Texas, Inc., and Nathan Bigbee, counsel for Defendants Chairman Smitherman and Commissioners Nelson and Anderson. The above counsel do not oppose TIEC's Motion to Intervene.



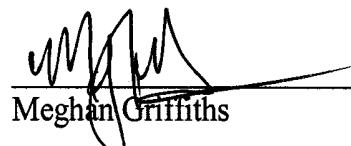
Meghan Griffiths

CERTIFICATE OF SERVICE

I, Meghan Griffiths, hereby certify that a true copy of the foregoing Unopposed Motion for Leave to Intervene of Texas Industrial Energy Consumers and proposed Order Granting Motion to Intervene has been sent by Certified Mail, Return Receipt Requested, on April 9, 2009, to the parties of record listed below

David C. Duggins
Clark, Thomas & Winters
300 West 6th Street, 15th Floor
P.O. Box 1148
Austin, Texas 78767-1148
512.472.8800 (phone)
512.474.1129 (fax)
Attorneys for Entergy Texas, Inc.

Nathan Bigbee
Assistant Attorney General
Natural Resources Division
P.O. Box 12548
Austin, Texas 78711
512.475.4166 (phone)
512.320.0911 (fax)
Attorney for Defendant Commissioners



Meghan Griffiths

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

ENTERGY TEXAS, INC.,
Plaintiff,

v.

**BARRY T. SMITHERMAN, Chairman of
the Public Utility Commission of Texas,**

**DONNA L. NELSON, Commissioner of the
Public Utility Commission of Texas, and**

**KENNETH W. ANDERSON, Commissioner
of the Public Utility Commission of Texas,
Defendants.**

Case No. A09CA183LY

ORDER GRANTING MOTION TO INTERVENE

Before the Court is Texas Industrial Energy Consumers' (TIEC) Unopposed Motion for Leave to Intervene. TIEC was granted party status and participated in Public Utility Commission of Texas Docket 35269, the underlying proceeding to this cause. The Court finds that TIEC's Unopposed Motion for Leave to Intervene has merit and should be granted.

IT IS THEREFORE ORDERED that TIEC's Unopposed Motion for Leave to Intervene is granted. It is FURTHER ORDERED that all parties should serve copies of all future documents filed in this proceeding pursuant to Federal Rule of Civil Procedure 5(b).

Signed _____, 2009

HONORABLE LEE YEAKEL
UNITED STATES DISTRICT COURT JUDGE